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09/741,857	12/22/2000	Richard P. Modelski	120-100	8573
34845	7590	10/22/2009		
Anderson Gorecki & Manaras LLP				
33 NAGOG PARK				
ACTON, MA 01720				
EXAMINER				
TRUONG, LAN DAI T				
ART UNIT		PAPER NUMBER		
2452				
NOTIFICATION DATE		DELIVERY MODE		
10/22/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD P. MODELSKI and MICHAEL J. CRAREN

Application 09/741,857
Technology Center 2400

Mailed: October 21, 2009

Before *JOYCE GUNTER-RILEY, Review Paralegal.*
GUNTER-RILEY, Review Paralegal.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on October 13, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed March 16, 2009 under the heading "Grounds of rejection to be reviewed on appeal" is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action mailed October 17, 2008 finds that claims 1-3 and 5-18 are rejected under 35 U.S.C. 112, Claims 1,3,5 and 17 are 35 U.S.C. 103(a), claims 2 rejected under 35 U.S.C. 103(a) and claims 6-16 and 18 are rejected under 35 U.S.C. 103(a). Appellants have not indicated the grounds of rejection of these claims.

Clarification of the record is required for all Grounds of rejection to be reviewed on appeal for all claims.

CONCLUSION

Accordingly, it is hereby

ORDERED that the application is returned to the Examiner for further consideration.

1) notify the Appellants that the Appeal Brief filed March 16, 2009 defective;

2) to vacate the Examiner's Answer mailed June 10, 2009;

3) to generate a new Examiner's Answer setting forth the correct

Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required; and

4) for such further consideration

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797

/jgr/

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